

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM HUDSON,

Plaintiff,

Case No. 20-cv-13322

Hon. Matthew F. Leitman

v.

BOOKS-A-MILLION, INC.,

Defendant.

**ORDER DENYING PLAINTIFF’S “MOTION FOR
SPOILIATION” (ECF No. 18) WITHOUT PREJUDICE**

This action arises out of injuries that Plaintiff William Hudson suffered after falling in a parking lot that was controlled and maintained by Defendant Books-A-Million, Inc. (*See* Compl., ECF No. 1-2.) Now before the Court is Plaintiff’s “Motion for Spoliation” based on Books-A-Million’s failure to produce any video surveillance of Hudson’s fall. (*See* Mot., ECF No. 18.) In that motion, Hudson argues that he is entitled to a jury instruction explaining that the jury may infer from Books-A-Million’s failure to produce the requested surveillance videos that the video evidence would operate in Hudson’s favor. (*See id.*) In response, Books-A-Million argues that there is no basis for such an instruction on spoliation of evidence because there is no video surveillance of Hudson’s fall, and because Hudson has

failed to provide any evidence that any such video evidence ever existed. (*See Resp.*, ECF No. 19, PageID.176.)

Hudson's motion is **DENIED WITHOUT PREJUDICE**. Hudson may renew his request for a jury instruction on spoliation of evidence at the close of proofs at trial. At that time, the Court will be able to determine whether such an instruction is appropriate based on a full factual record.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: October 3, 2022

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on October 3, 2022, by electronic means and/or ordinary mail.

s/Holly A. Ryan
Case Manager
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